S.B. CRIMINAL REVISION PETITION NO.772/2006.
Shravan Lal Vs. State
Date of Order:- 17/8/2006.

HON'BLE MR.JUSTICE HARBANS LAL

Mr. Anoop Dhand for the petitioner.
Mr. Arun Sharma P.P. for the State.

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This revision petition under Section 397 read with Section 401 Cr.P.C. is directed against the judgment dated 11/2/2005 passed by the learned Additional Sessions Judge No.2, Sikar in Cr.Appeal No.44/2003 whereby the appeal has been dismissed and the judgment dated 11/9/2003 passed by the learned Additional Chief Judicial Magistrate, Dantaramgarh, Distt.Sikar in Cr.Case No.32/1998 convicting the petitioner for offences under Sections under Sections 287, 337 and 338 IPC and releasing him on probation has been confirmed.

Briefly stated the relevant facts of the case are that accused Petitioner was tried on the charges for the aforesaid offences and was convicted for these offences but instead of immediately sentencing him to punishment he was released on probation under Section 4 of the Probation of Offenders Act, 1958 (in short "Act of 1958") and a further order was passed under Section 5 of the Act of 1958 to pay a sum of Rs.10,000/- for being paid as compensation to the injured.

The limited prayer in this revision petition during the course of arguments is that the accused-petitioner has been denied the benefit granted under Section 12 of the Act of 1958 which reads as under:-

> **12.Removal of disqualification attaching to conviction.-** Notwithstanding anything contained in any other law, a person found guilty of an offence and death with under the provisions of section 3 or section 4 shall not suffer disqualification, if any attaching to a conviction of an offence under such law:-
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> Provided that nothing in this section shall apply to a person who, after his release under section, is subsequently sentenced for the original offence."

Learned Public Prosecutor also could not dispute this legal position.

A bare perusal of the aforesaid Section makes it abundantly cleat that the person who has has been found guilty of an offence and has been dealt with under Section 3 or Section 4 of the Act of 1958 shall not suffer disqualification, if any, attaching to a conviction of an offence under the law. The petitioner having not been sentenced subsequently for the original offence, proviso to the aforesaid section has no application to this case and need not be dealt with here.

In view of what has been stated above, the limited prayer made on behalf of the accused-petitioner deserves to be and is hereby allowed and it is directed that the accused-petitioner shall not suffer disqualification if any as per the provisions of Section 12 of the Act of 1958 and to that extent the order of the learned court below stands modified.

This petition stands disposed of accordingly.

Anil **(HARBANS LAL), J.**